

CAO 8-3a Instructions for Form CAO 8-3: Decree of Divorce [No Minor Children]

In an uncontested (default) divorce, the Decree of Divorce must have exactly the same information as the Complaint. You cannot change anything without the agreement of the other party. If there are changes both of you agree upon, you can file a “Stipulation for Entry of a Decree of Divorce” Use Court Assistance Office Form No. CAO 6-8 and CAO Instruction 5A.

Exactly like you did in the Complaint, at the top left-hand corner of page 1, fill in your name, address and telephone number. Fill in the county and judicial district in the heading (for example, “In the District Court of the Sixth Judicial District in and for the county of Bannock”). Fill in your full legal name in the caption above “Plaintiff”. Fill in your spouse’s full legal name above “Defendant”.

Fill in the Case Number.

Leave the date blank in the introductory sentence.

Check either the first box if this is a default divorce, or the second box if you and your spouse filed a written stipulation (Form CAO 6-8) for the entry of this Decree.

2. Separate Property.

- If there is no need to explain ownership of separate property, check the box. **or**
- If you want the court to order that specific separate property belongs to the Husband and/or an order that Husband’s separate property, now in the possession of the Wife, be returned to the Husband, check the box and describe the property in the first section of Exhibit A.
- If you want the court to order that specific separate property belongs to the Wife and/or an order that Wife’s separate property, now in the possession of Husband, be returned to the Wife, check the box and describe the property in the first section of Exhibit B.

3. Disposition of Community Real Property. *A “lien” is a legal right or interest that a creditor has in another’s property (for example the mortgage loan). The mortgage loan and any other lien against the property should be listed in the Debt Section of the Decree of Divorce. We recommend you discuss your mortgage loan or any other lien on your property with your lending institution or lien holder, and you should talk to an attorney before proceeding. As long as both of your names remain on the loan, you will both continue to be responsible for payment until the loan is paid in full. If the payment isn’t paid by the one assigned to make it, the creditor may be able to collect from either of you. Also, if the property is foreclosed, both of you could be held responsible for any deficiency in paying off the loan after foreclosure sale. “Equity” is the difference between the value of the property and all encumbrances (liens) upon the property.*

Note: *If the amount of the equity payment is large and will be spread out into periodic payments, you should talk to an attorney about the right way to insure the payments are made.*

- If you have acquired community real property during the marriage, check the box **and**
 - fill in the residential address of the property (house number and street name),
 - the name of the city and county and
 - the legal description for the property (use the legal description in the deed).

- Check one of the first three boxes to indicate what the disposition of the community real property and any equity in the property will be, and fill in the blanks **or**
- Check the fourth box and write in your own words what will be done with the property and any equity in the property. *Note: If the amount of the equity payment is large and will be spread out into periodic payments, you should talk to an attorney about the right way to insure the payments are made.*

4. Community Personal Property.

- If you have not acquired any community personal property, check the first box. **or**
- If you have already divided your community personal property and each of you have the property in your possession, check the second box. **and/or**
- If you want the court to order that specific property be given to the Husband and the property is already in Husband's possession, check the third box and list the property in the second section on Exhibit A (Husband's property) **and/or**
- If you want the court to order that specific property be given to the Wife and the property is already in Wife's possession, check the fourth box and list the property in the second section on Exhibit B (Wife's property).
- If there is property that the Husband should have given to him which is still in the possession of the Wife, check the third box **and** list the property in the third section on Exhibit A (Husband's property).
- If there is property that the Wife should have given to her which is still in the possession of the Husband, check the fourth box **and** list the property in the third section on Exhibit B (Wife's property).

***Note:** The Decree of Divorce can be used to transfer titles or deeds; but only if the description of the property is complete and accurate (example: for vehicles, include all identifying information on the title; for real property, include a legal description of the property from the deed and not just the residential address of the property).*

If you have listed any property on Exhibit A or Exhibit B, the Exhibits must be attached to every copy of the Decree of Divorce.

5. Debts:

- List each creditor Husband should be ordered to pay; **and/or**
- List each creditor Wife should be ordered to pay.

***Note:** If both of you are going to pay a part of the same debt, also put in the amount each of you should be ordered to pay.*

6. Debts Incurred Since Separation:

- If the Decree should order that each party will assume any debt incurred by them after the separation date, check the box and write in the date you stopped living together.

7. Name Change: If either party wants to stop using the last name of the spouse and go back to using their former last name (any name legally used), fill in the name of the person wanting the name change and fill in the former **last name only**. (Accurate spelling is very important.)

Leave the date blank. The judge will fill in the date when s/he signs the Decree of Divorce.

Sign the Decree of Divorce. If you and your spouse filed a written stipulation (Form CAO 6-8) for the entry of this Decree, in the space below the line for the judge's signature, each of you will write "Approved by" and then sign your name and write the current date.

Clerk's certificate of service: Fill in name, mailing address, city, state and zip code for Husband and Wife. Leave the date blank. The clerk will fill it in when s/he signs the certificate.

Exhibits: If you have listed property on Exhibits "A" and/or "B", they must be attached to the Decree with a staple.

Make two copies of the Decree with all the Exhibits attached, giving you a total of three full sets.

CONTINUE TO FOLLOW INSTRUCTION NO. 5 TO FINALIZE YOUR DIVORCE.

REMEMBER TO REMOVE THESE INSTRUCTIONS BEFORE SUBMITTING THE DECREE TO THE COURT